

**Introduced by Senator Florez**

February 22, 2005

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An act to amend Section 65589.7 of the Government Code, relating to housing.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1087, as introduced, Florez. Housing elements: services.

(1) The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs. That law also requires that the housing element adopted by the legislative body of the city, county, or city and county and any amendments made to that element be delivered to all public agencies or private entities that provide water services at retail or sewer services within the territory of the legislative body.

The Planning and Zoning Law also requires each public agency or private entity providing these services to grant a priority for the provision of available and future resources or services to proposed housing developments that help meet the legislative body's share of the regional housing need for lower income households as identified in the housing element and any amendments to the housing element.

This bill would require that the adopted housing element and any amendments be delivered immediately, as specified, apply these provisions to the legislative body's share of the regional housing need for very low and low-income households, and would require, within 60 days of the adoption or amendment of the housing element, that these public agencies or private entities adopt a policy for the allocation of these services in conformance with these provisions. By

increasing the duties of local public officials, the bill would impose a state-mandated local program.

This bill would also provide that a provider of water or sewer services may not deny or condition the approval of an application for services, or reduce the amount of the services applied for, if the proposed development includes housing affordable to lower income households and would require the local planning agency or the legislative body to deny an application for any residential or nonresidential development if it finds, based on substantial evidence, that these provisions have not been complied with.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65589.7 of the Government Code is  
2 amended to read:  
3 65589.7. (a) The housing element adopted by the legislative  
4 body and any amendments made to that element shall be  
5 *immediately* delivered to all public agencies or private entities  
6 that provide water services at retail or sewer services within the  
7 territory of the legislative body. When allocating or making plans  
8 for the allocation of available and future resources or services  
9 designated for residential use, each public agency or private  
10 entity providing water services at retail or sewer services, shall  
11 grant a priority for the provision of these available and future  
12 resources or services to proposed housing developments ~~which~~  
13 ~~help~~ to meet the city's, county's, or city and county's share of the  
14 regional housing need for ~~lower~~ *very low and low-income*  
15 households as identified, *pursuant to paragraph(1) of subdivision*  
16 *(a) of Section 65583*, in the housing element adopted by the  
17 legislative body and any amendments made to that element.

1 (b) *Within 60 days of the adoption of the housing element or*  
2 *any amendments by the legislative body, the public agency, or*  
3 *private entity providing services as provided in subdivision (a),*  
4 *shall adopt a policy for allocation of services in conformance*  
5 *with this section. The priority established in subdivision (a) shall*  
6 *mean a priority over all other applicants for existing as well as*  
7 *future resources to proposed housing developments.*

8 (c) *The provider of water or sewer services as provided in*  
9 *subdivision (a) shall not deny or condition the approval of an*  
10 *application for services, or reduce the amount of services applied*  
11 *for, if the denial, condition, or reduction is based in whole or in*  
12 *part on the inclusion of housing affordable to lower income*  
13 *households in the proposed development. However, the approval*  
14 *of an application may be conditioned on the developer including*  
15 *housing affordable to lower income households in the*  
16 *development. The provider of water or sewer services shall*  
17 *reserve sufficient available existing and future resources or*  
18 *services to meet the requirement as provided in subdivision (a) of*  
19 *the city's, county's, or city and county's share of the regional*  
20 *housing need for very low and low-income households, as*  
21 *defined in subdivision (a).*

22 (d) *When considering an application for any residential or*  
23 *nonresidential development that does not include housing*  
24 *affordable to lower income households, neither the local*  
25 *planning agency nor legislative body shall approve the*  
26 *application unless it finds, based on substantial evidence, that*  
27 *each public agency or private entity providing sewer or water*  
28 *services to the proposed development has complied with*  
29 *subdivision (a).*

30 (e) *The following definitions apply for purposes of this*  
31 *section:*

32 (1) *"Available existing and future resources and services"*  
33 *means those that are not irrevocably committed by legally*  
34 *enforceable agreement, including those that will become*  
35 *available as a result of expansion or increase in capacity or*  
36 *reduction of the provision of resources or services to existing*  
37 *recipients.*

38 (2) *"Affordable to lower income households" means that at*  
39 *least 20 percent of the total units shall be (A) sold or rented to*  
40 *lower income households as defined in Section 50079.5 of the*

1 *Health and Safety Code, (B) made available at a monthly*  
2 *housing cost that does not exceed 30 percent of 60 percent of the*  
3 *area median income with adjustments for household size made in*  
4 *accordance with the adjustment factors on which the lower*  
5 *income eligibility limits are based, and (C) restricted by legally*  
6 *sufficient commitments to ensure continued availability of units*  
7 *to lower income households in accordance with the provisions of*  
8 *this subdivision for 30 years.*

9 (f) This section is intended to neither enlarge nor diminish the  
10 existing authority of a city, county or city and county in adopting  
11 a housing element. Failure to deliver a housing element adopted  
12 by the legislative body or amendments made to that element, to a  
13 public agency or private entity providing water services at retail  
14 or sewer services shall not invalidate any action or approval of a  
15 development project. The special districts which provide water  
16 services at retail or sewer services related to development, as  
17 defined in subdivision (e) of Section 56426, are included within  
18 this section.

19 ~~(e)~~

20 (g) As used in this section, “water services at retail” means  
21 supplying water directly to the end user or consumer of that  
22 water, and does not include sale by a water supplier to another  
23 water supplier for resale.

24 SEC. 2. If the Commission on State Mandates determines that  
25 this act contains costs mandated by the state, reimbursement to  
26 local agencies and school districts for those costs shall be made  
27 pursuant to Part 7 (commencing with Section 17500) of Division  
28 4 of Title 2 of the Government Code.